

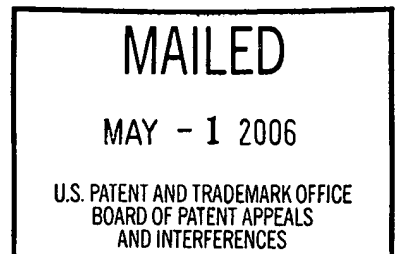
The opinion in support of the decision being entered today was not written for publication and is not binding precedent of the Board.

UNITED STATES PATENT AND TRADEMARK OFFICE

**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

Ex parte CARL M. HOFFMASTER,
DAVID K. TRUAX, and
TIMOTHY P. BEATON

Application No. 09/924,961



ORDER RETURNING UNDOCKETED APPEAL TO EXAMINER

This application was electronically received at the Board of Patent Appeals and Interferences on April 24, 2006. A review of the application has revealed that the application is not ready for docketing as an appeal. Accordingly, the application is herewith being returned to the examiner. The matters requiring attention prior to docketing are identified below.

The "Evidence Relied Upon" section on pages 2 and 3 of the Examiner's Answer mailed July 12, 2006, states that "[n]o evidence is relied upon by the examiner in the rejection of the claims under appeal." However, the "Grounds of Rejection" section of the Examiner's Answer identifies several references relied upon by the examiner. As stated in the Manual of Patent Examining Procedure § 1207.02 Rev. 3 (August 2005) "Contents of Examiner's Answer:"

(8) Evidence Relied Upon. A listing of the evidence relied on (e.g. patents, publications, admitted prior art), and, in the case of nonpatent references, the relevant page or pages.

Appropriate correction is required.

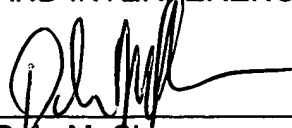
Additionally, the Information Disclosure Statement dated April 3, 2006, needs to be considered by the Primary Examiner with respect to compliance with the criteria set forth in 37 CFR §§ 1.97 and 1.98. A written communication notifying appellants of the Primary Examiner's decision is required.

Accordingly, it is

ORDERED that the application is electronically returned to the Examiner to:

- (1) vacate the Examiner's Answer mailed July 12, 2005, and issue a revised Examiner's Answer correcting the "Evidence Relied Upon" section;
- (2) have a complete copy of the revised Examiner's Answer scanned into the record;
- (3) consider the Information Disclosure Statement dated April 3, 2006;
- (4) provide written communication notifying appellants of the Primary Examiner's decision; and
- (5) for such further action as may be appropriate.

BOARD OF PATENT APPEALS
AND INTERFERENCES



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